

COPY

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September 19, 1991

VIA TELECOPIER  
1-802-244-5685

Alexander D. McEwing, President  
Family Broadcasting, Inc.  
P. O. Box 150  
Waterbury, Vermont 05676

RE: Application for FM Channel 229A1, Hague, New York

Dear Alex:

00001

Alex D. McEwing  
September 19, 1991  
Page 2

- 6) Section VII, 0.3. Please review the information on the site certification carefully to determine if it is completely accurate. Recall that the Commission requires no more (but no less) than that Family has reasonable assurance to use the site specified in the application. Reasonable assurance means, at a minimum, permission to use the site. The permission may be given orally--it need not be in writing--but it must be unambiguously given.

<u>Federal Communications Commission</u>	
Docket No. <u>94-20</u>	Exhibit No. <u>2</u>
Presented by <u>FAMILY BROADCASTING</u>	
Disposition	Identified <u>11/2</u>
	Received <u>11/2</u>
	Rejected _____
Reporter <u>BARBARA LORIO</u>	
Date <u>11/2/94</u>	

### **TESTIMONY OF PETER MORTON**

1. My name is Peter Morton. I reside, as I have for the last eight years, in Rupert, Vermont. My residence address is P.O. Box 57, Rupert, Vermont 05768. I am currently working as a consulting engineer doing AM, FM and LPTV application and field engineering for a variety of clients in the northeast. My name is known to the Commission as a matter of record, having filed numerous applications and technical statements over a 10 year period. In addition to the engineering work I now do, I have 26 years of experience in the broadcast industry in various technical and administrative positions, including part ownership of WMNV (FM), Rupert, Vermont, which was sold to Family Broadcasting in 1992.

2. During the Summer of 1991 I worked as the manager of WIPS, an AM daytime station serving Ticonderoga, New York. The WIPS transmitter site is located on property owned by the Ft. Ticonderoga Association, and I became acquainted with Nicholas Westbrook, who managed the sites and properties that the Fort owns. At that time I was aware that the FCC was in the midst of a rulemaking procedure to allocate a class A FM channel to Hague, New York, a town adjacent to Ticonderoga. I did an allocation study and it quickly became clear that the Mt. Defiance site owned by the Fort Ticonderoga Association would be by far the best site to provide service to Hague.

3. Since the site was already host to WANC-FM, emergency, police and mobile radio transmitters, I approached Mr. Westbrook

about the availability of the site for an additional transmitter and antenna. We met in his office for about 30 minutes, discussing, among other things, the increased local service this would provide to the Ticonderoga area and the opportunity for more diverse programming. We also talked about the required electric draw, how to place another transmitter in the already crowded electronics room, and the necessity of choosing the antenna that would have a small profile in order to preserve the historic nature of the Mt. Defiance Fort. He then outlined his proposed terms: a minimum of \$300 per month plus a percentage of the station's gross revenues. This figure seemed quite steep to me, and I neither agreed or disagreed to it at that time. We talked of other matters for a few minutes and there was no further comment about possible terms and conditions for a lease of the site.

4. When the FCC subsequently set a date to accept applications I again contacted Mr. Westbrook, this time by phone. I again asked him about the availability of the Mt. Defiance site. he asked if it were possible to use the AM tower site, which is located next to the lake in Ticonderoga, but that site would not provide a city grade signal over the city of license. I explained the need for FM antennas to be located in high places. He then agreed that the Fort Defiance site was probably the best place, and said something like "we can probably do something," or "it can be worked out." He asked me for a letter to take to his board of directors outlining possible programming for the new station and the technical requirements (size and shape) of the transmitter and

antenna.

5. In my work as a consultant and as a former station owner I have arranged leases and rentals of transmitter sites a number of times. When my telephone call with Mr. Westbrook concluded I believed that I had his permission, i.e., "reasonable assurance" to specify the Fort Defiance site as a transmitter site. In all my conversations with Mr. Westbrook (both regarding the Hague allocation and my management of WIPS) he had always represented himself to me as the sole and complete decision maker for matters concerning the Fort and I had no doubt that I was to proceed. Upon gaining a construction permit I expected that there would be further negotiations with Mr. Westbrook over the money, and with the board who would be interested in antenna size and placement, and other matters relating to preserving the historic nature of the Fort. However, shortly after this conversation I left my employment with WIPS and lost interest in the Hague FM.

6. Later that summer I was contacted by Mr. Brian Larson of Valley Falls, New York. He was interested in applying for the Hague FM and I suggested the Fort Defiance site. I gave him Mr. Westbrook's number. He later reported that his conversation with Westbrook was very similar to mine--Westbrook said that "yes, it could be worked out" and that he needed a letter detailing the size of the antenna and the power consumption. Mr. Larson believed that he had been given permission to use the site and began to prepare an application specifying that site. He also sent the requested letter to Westbrook who never replied to it. Nor did Mr. Westbrook

ever return any of Mr. Larson's subsequent telephone calls. Without any word from Mr. Westbrook as to where on the tower the antenna was to be located it was impossible to locate the antenna center of radiation correctly. The application could not be completed and the 30 day filing window closed.

7. On November 19, 1991 (I know the date from the phone records faxed to me by Family's counsel, attached hereto as Attachment A) I received a call from Alex McEwing. Mr. McEwing told me that he needed my help to find a new site and prepare a modification to his Hague FM application. Mr. McEwing related that he had filed an application for Hague specifying the Mt. Defiance site, but that "the guy" (i.e., Mr. Westbrook) who gave him permission to use the site had changed his mind. Mr. Ewing was clearly upset by the situation, in fact, quite angry. He explained that he had talked to Mr. Westbrook who said something to the effect that "he was sure that they could work something out." The conversation he described with Mr. Westbrook sounded a great deal like my conversation with Westbrook, even to the terms of the proposed lease, except that Mr. McEwing did not mention anything about writing a letter to the board. Mr. McEwing told me that Westbrook told him to go ahead (with the application), and then "pulled the rug out from under me."

### **SUPPORTING DECLARATION**

I, Peter Morton, hereby swear under penalty of perjury of the laws of the United States and the State of Vermont, that the forgoing "Testimony of Peter Morton," consisting of four (4) pages, was prepared under my direction for submission to the Federal Communications Commission in connection with MM Docket Number 94-20, Family Broadcasting, Inc., and that the testimony is true and correct to the best of my knowledge and belief.

**Executed** this 15<sup>th</sup> day of October, 1994

By:   
Peter Morton



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A.

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**TESTIMONY OF PETER MORTON**

**ATTACHMENT A**  
**TELEPHONE RECORDS**

20536 Dept.

DATE	TIME	CALLED	NUMBER	DESTINATION	MINUTES	CHARGE
11/01	10:08	802	862-0800	BURLINGTON	VT	3.40
11/01	13:30	603	542-6784	CLAREMONT	NH	11.90
11/01	15:12	603	542-6784	CLAREMONT	NH	0.70
11/01	17:48	802	674-2779	WINDSOR	KS	0.13
11/01	17:53	316	267-8311	WICHITA	VT	0.60
11/01	22:32	802	893-2454	MILTON	VT	1.00
11/02	10:46	603	863-7991	NEWPORT	NH	1.10
11/04	11:37	603	542-6784	CLAREMONT	NH	0.70
11/04	11:42	802	879-2552	ESSEX JCT	VT	4.70
11/04	11:49	802	879-7121	ESSEX JCT	VT	6.60
11/04	12:01	802	864-0501	BURLINGTON	VT	0.70
11/04	12:03	802	879-3433	ESSEX JCT	VT	0.90
11/04	12:04	802	879-2552	ESSEX JCT	VT	1.00
11/04	12:07	802	862-2589	BURLINGTON	VT	0.00
11/04	13:17	316	267-8311	WICHITA	KS	12.20
11/05	16:13	203	677-6700	FARMINGTON	CT	2.20
11/05	16:35	319	382-4251	DECORAH	IA	0.80
11/05	16:36	319	536-2227	FARMERSBG	IA	0.90
11/06	10:42	802	879-0970	ESSEX JCT	VT	6.10
11/06	11:18	802	878-5811	ESSEX JCT	VT	1.10
11/06	11:53	802	496-6982	WATTSFIELD	VT	4.60
11/06	16:11	802	479-3326	BARRE	VT	1.10
11/06	16:27	802	479-3326	BARRE	VT	3.30
11/08	10:25	802	879-0970	ESSEX JCT	VT	19.90
11/08	13:53	518	686-0975	MOOSICKFLS	NY	3.60
11/08	13:56	802	379-7608	ESSEX JCT	VT	0.00
11/08	13:56	802	878-8213	ESSEX JCT	VT	3.40
11/08	11:30	802	748-8324	ST JOHNSBY	VT	0.50
11/08	11:33	802	434-3796	RICHMOND	VT	0.00
11/08	11:54	603	542-6784	CLAREMONT	NH	18.90
11/08	12:42	708	986-5081	HINSDALE	IL	1.50
11/08	12:49	802	878-0274	ESSEX JCT	VT	3.30
11/08	17:07	603	542-6784	CLAREMONT	NH	12.20
11/08	17:08	603	542-6784	CLAREMONT	NH	2.20
11/08	18:02	802	879-0970	ESSEX JCT	VT	1.10
11/08	18:20	802	862-2589	BURLINGTON	VT	0.70
11/08	13:22	802	485-7877	NORTHFIELD	VT	0.00
11/08	20:14	802	879-0970	ESSEX JCT	VT	2.30
11/08	20:19	802	879-0970	ESSEX JCT	VT	0.50
11/08	20:22	802	879-6862	ESSEX JCT	VT	0.50
11/08	20:25	603	542-6784	CLAREMONT	NH	0.50
11/08	20:49	802	879-0970	ESSEX JCT	VT	12.00
11/11	16:02	802	343-0230	VERMONT	VT	1.00
11/11	16:25	802	879-0970	ESSEX JCT	VT	6.00
11/11	16:37	802	877-3640	VERGENNES	VT	0.70
11/11	16:41	802	343-0230	VERMONT	VT	0.90
11/12	13:46	802	878-8213	ESSEX JCT	VT	0.50
11/12	13:50	603	543-3842	CLAREMONT	NH	0.50
11/12	13:50	603	542-6784	CLAREMONT	NH	0.50
11/12	13:51	603	543-3482	CLAREMONT	NH	3.70
11/12	14:06	802	434-3174	RICHMOND	VT	0.60
11/12	15:44	603	448-3230	LEBANON	NH	0.50
11/12	16:05	802	295-5000	WE RIV JCT	VT	1.20
11/12	16:07	802	672-3399	BRIDGEWTR	VT	0.90
11/12	16:09	603	542-6784	CLAREMONT	NH	0.60
11/13	11:45	802	879-7608	ESSEX JCT	VT	0.70
11/13	15:45	603	542-6784	CLAREMONT	NH	0.50
11/13	15:46	802	893-6113	MILTON	VT	0.50

continued on next page.

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<u>Federal Communications Commission</u>	
Docket No. <u>94-20</u>	Exhibit No. <u>3</u>
Presented by <u>FAMILY BROADCASTING</u>	
Disposition	Identified <u>11/2</u>
	Received <u>11/2</u>
	Rejected _____
Reporter <u>BARBARA WOOD</u>	
Date <u>11/2/94</u>	

### **TESTIMONY OF GARY S. SAVOIE**

1. My name is Gary S. Savoie. My residence address is 50 Park Avenue, Claremont, New Hampshire, 03743. I am the owner of Mirkwood Engineering, which uses the same address. Mirkwood Engineering is a consulting engineering firm specializing in preparing FM rulemaking petitions and allocation studies and FCC applications for AM, FM, full power and low power television stations. My name is known to the FCC as a matter of record, having filed numerous rulemaking petitions and FCC applications over a number of years. In my capacity as a consulting engineer I prepared the engineering portions of Family Broadcasting, Inc.'s application for channel 229A, Hague, New York.

2. On September 18, 1991 I received a call from Alex McEwing of Family Broadcasting, Inc., who was an existing client. I know the date and time of Mr. McEwing's call because I have reviewed his telephone records for that date on file with the FCC (See Attachment A). His call came at 11:47 a.m. and we spoke for over 32 minutes.

3. Mr. McEwing asked me to prepare the engineering for a new FM application at Hague, New York, and indicated that there was some urgency in filing the application because the window for the allocation has passed and the application would be processed on a "first-come first served" basis. I asked him if he had located a site, and he told me that he had, on the same tower occupied by WANC on Mt. Defiance, Ticonderoga, New York. I recall specifically asking him who had given him permission to use the site, and he

told me that a Mr. Nick Westbrook had done so. He described a conversation which he told me he had just completed with Mr. Westbrook of the Fort Ticonderoga Association. He told me that they hadn't worked out any terms and conditions of a lease with Mr. Westbrook, but that he asked Mr. Westbrook if he (Westbrook) had any problem with Family specifying the Mt. Defiance site of WANC as its site in Family's application for Hague. According to Mr. McEwing, Westbrook said that he had no objection but that he (McEwing) needed to put his proposal, particularly the engineering details, in writing. My notes from my day log of that day, Attached as Attachment B, show that I noted Mr. Westbrook's name and telephone number as the person who gave Mr. McEwing permission to use the site ("site certification"). Mr. McEwing also gave me technical information concerning the site during this same telephone conversation.

4. In studying the Hague project I became concerned about several technical issues, such as the electromagnetic radiation at the site and the spot, exactly, where Family's antenna could be located on the WANC tower. I needed this information to prepare the application. Accordingly, early the next day (September 19, 1991) I called the other occupant on the tower which Family was specifying, FM station WANC, licensed to Ticonderoga, New York. I spoke with a person on the WANC engineering staff, whose name I can't now recall. I told him that I was preparing an application on behalf of Family Broadcasting, Inc. for an FM frequency in Hague, New York, that Family was specifying the WANC tower as its

site, and that I needed some technical information to prepare the FCC application. Our telephone records for that day show that the call consumed 15 minutes (See Attachment C).

5. The notes in my day log, attached in Attachment B, also refer to my conversation with the engineer at WANC. My notes show that we discussed the spot WANC occupied on the tower and technical details such as their height above ground and mean sea level, how the site was fenced, and the the site's latitude and longitude. The notes include a reference to Dave Golletely (sp?) of WAMC, but I am not sure now whether I was given this name as someone who was a contact, or if that was the name of the person to whom I was speaking.

6. As a consulting engineer I have had many conversations with site owners and station engineers concerning antenna sites, and I have negotiated and arranged leases on many towers for my clients. The person at WANC with whom I spoke was extremely cooperative. Following that conversation there was no doubt, in my mind, concerning whether Family had permission to use the site. Indeed, I recall that the person with whom I was speaking said something during the conversation which indicated that he was aware that Mr. McEwing had called about the site and that he had been instructed to be as accomodating as possible. He was.

7. Following this conversation I prepared the engineering for the Hague application which was subsequently filed with the Commission based, in part, on the information I received from the WANC staff person during this telephone call. With the exception

of the preparation of this testimony that ended my involvement with the Hague application.



### **SUPPORTING DECLARATION**

I, Gary S. Savoie, hereby swear under penalty of perjury of the laws of the United States and the State of New Hampshire, that the forgoing "Testimony of Gary S. Savoie," consisting of four (4) pages, was prepared under my direction for submission to the Federal Communications Commission in connection with MM Docket Number 94-20, Family Broadcasting, Inc., and that the testimony is true and correct to the best of my knowledge and belief.

Executed this 17 day of October, 1994

By: 

Gary S. Savoie

Federal Communications Commission	
Docket No. <u>94-20</u>	Exhibit No. <u>4</u>
Presented by <u>FAMILY BROADCASTING</u>	
Disposition	Identified <u>11/2</u>
	Received <u>11/2</u>
	Rejected _____
Reporter <u>BARBARA WRO</u>	
Date <u>11/2/94</u>	

## TESTIMONY OF ROBERT G. SHORT

1. My name is Robert G. Short. I now live at 3810 Albin Avenue, Northport, Florida, 34287. I am now the pastor of the First Alliance Church, 4050 Colonial Boulevard, Fort Meyers, Florida, 33912. I have known Alex McEwing and his family since 1979, when I became pastor of the North Avenue Alliance Church in Burlington, Vermont. I served as Pastor of that church until the end of 1988, when I moved to Florida. My son still lives in the area, however, and, as a matter of fact, only a few months ago began working for Alex McEwing at WGLY. I visit the Burlington area on a regular basis, at least twice a year, and my wife and I still have many friends in the area with whom we keep in touch. Mr. McEwing and his family are among the people that we keep in touch with and I would describe them as personal friends.

2. I have known Alex McEwing since I first arrived in the Burlington area in 1979. Alex, at that time, was still in college and his family (father and mother) were active members of my church. Soon after I became pastor Mr. Alex McEwing returned from college and became an active member of the church congregation. I have known Alex as he worked at radio station WGLY, as an elected member of the Church board of directors for three years, and as a promoter of a number of concerts sponsored by our church. For these concerts the Church provided the Hall for the concert and Mr. McEwing booked the talent--Christian musicians and singers--for the performance. Mr. McEwing is well known in the community because of his concerts and promotions and because of his community work with

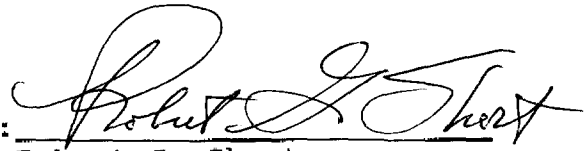
the church and with radio station WGLY. Alex is a high profile radio station owner, both because he is heard on the station and during the Shar-A-Thons, and because the station is involved in the community. For example, WGLY always has a booth at the Champlain Valley Fair promoting the station.

3. In all of my dealings with Mr. McEwing as a concert promoter he has always conducted himself with scrupulous honesty. In fact, he has a reputation in the community for high character and for being an honest man. Burlington is a small enough community if there were ever a whiff of scandal, or a whisper that someone were dishonest, I would have heard of it. I never heard anything implicating Mr. McEwing's character or honesty, and his reputation, to my knowledge, was (and is) totally unsullied. In fact, in electing members of the church board the congregation usually elects older or middle aged members who have been active in the Church for many years. Alex was elected to our church board by the congregation when he was still in his 20's, a fact which I view as a recognition by the congregation of his outstanding character and community service.

### **SUPPORTING DECLARATION**

I, Robert G. Short, hereby swear under penalty of perjury of the laws of the United States and the State of Florida, that the forgoing "Testimony of Robert G. Short," consisting of two (2) pages, was prepared under my direction for submission to the Federal Communications Commission in connection with MM Docket Number 94-20, Family Broadcasting, Inc., and that the testimony is true and correct to the best of my knowledge and belief.

Executed this 17<sup>th</sup> day of October, 1994

By:   
Robert G. Short

Federal Communications Commis.	
Docket No. <u>94-20</u>	Exhibit No. <u>5</u>
Presented by <u>FAMILY BROADCASTING</u>	
Disposition	Identified <u>11/2</u>
	Received <u>11/2</u>
	Rejected _____
Reporter <u>BRADBART WARD</u>	
Date <u>11/2/94</u>	

### **TESTIMONY OF GEORGE A. SCHIAVONE**

1. My name is George A. Schiavone. I live at 16 Pinehurst Drive, Shelburne, Vermont, 05482. I have known Alex McEwing for eight to ten years and am a member of the Board of Directors of Christian Ministries, Inc. ("CMI"), an organization of which Mr. McEwing is president. I would describe my relationship to Mr. McEwing as more of a "community friend," a casual friend and an associate in various community affairs and projects. I know of Mr. McEwing's reputation in the greater Burlington community, and I believe that he is widely known as a truth teller and has a reputation in the community for honesty.

2. Two years ago I "retired" from General Electric as the Manager of Engineering for the Burlington plant. I was then elected as the State Representative for Chittenden County, district 5-1. I am now running for re-election on the Republican ticket. I have been a Justice of the Peace, and am now involved in a number of community organizations. I am the: Vice Chair of the Northern Vermont Burlington County Red Cross Board; Board Chair of the Emergency Shelter; and, a member of the Rotary Club and the Lake Champlain Chamber of Commerce. I am the Vice Chair of the Shelburne Republican Committee and a member of the Board of Genesis, Inc., a half-way house for people coming out of prison.

3. Mr. McEwing now lives in Essex Junction, and until very recently lived in Waterbury, Vermont. He is well known throughout Chittenden County and the Greater Burlington area, however, because of his appearances on radio programs on WGLY-FM and his work as master of ceremonies for various concerts and events staged in the

area.

4. Mr. McEwing's reputation in the community is that of a "straight-arrow." I can't imagine anyone not believing that Mr. McEwing is anything but a "truth-teller." I wouldn't question the truth of what Alex told me for a moment, he is totally on the up and up. I have never seen him try to talk his way out of anything. If Alex says something, people believe it as true.

5. I depend on Mr. McEwing, as president of the CMI board to provide me with the truth and with accurate information about the corporation. His reporting to us is very straight forward, he levels with us. I have also seen Mr. McEwing and others at local community meetings. Often these meetings emphasize civic boosterism and sales. Many, in this atmosphere, exaggerate--not Mr. McEwing. I have not heard of anything connected with Mr. McEwing that smacked of dishonesty, or even exaggeration.



**SUPPORTING DECLARATION**

I, George A. Schiavone, hereby swear under penalty of perjury of the laws of the United States and the State of Vermont, that the forgoing "Testimony of George S. <sup>A</sup>Shiavone," consisting of two (2) pages, was prepared under my direction for submission to the Federal Communications Commission in connection with MM Docket Number 94-20, Family Broadcasting, Inc., and that the testimony is true and correct to the best of my knowledge and belief.

Executed this 14<sup>th</sup> day of October, 1994

By: George A. Schiavone  
George S. Schiavone  
<sup>A</sup>